THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7713 OF 1996

Dated 23rd February 2006

Between:

Smt.Kilaparthi Pydithallamma & others

…Petitioners

And

The Joint Collector, Vizianagaram District,

& others.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7713 OF 1996

O R D E R:

The petitioners were issued show-cause notices, dated 12.3.1991, by the Revenue Divisional Officer, Vizianagaram. It was pointed out that the petitioners are residing in houses, which were allotted to some other beneficiaries, under HUDCO Scheme. They were required to show cause, as to why the possession of the houses shall not be resumed to the Government. The petitioners submitted their explanations, and on a consideration of the same, the second respondent passed an order, dated 28.10.1992, directing resumption of the houses. Aggrieved thereby, the petitioners filed appeals, before the Joint Collector, Vizianagaram, the first respondent herein. The appeals were rejected, through orders dated 26.3.1996. Hence, this writ petition.

Sri Gudapati Venkataswara Rao, learned counsel for the petitioners, submits that

the petitioners themselves were eligible to be allotted houses, under the HUDCO Scheme, and in fact, they have been issued Pass Books by the HUDCO, and on the basis of the same, they are not only living in the houses, but are continuing to pay the instalments. He submits that respondents 1 and 2 proceeded on certain assumptions, at the instance of the local politicians, and are trying to evict the petitioners.

Learned Government Pleader for Assignment, on the other hand, submits that though the petitioners were issued show-cause notices, they did not come forward with any orders of assignment, and the record clearly discloses that the petitioners have purchased the respective premises, from the original assignees. It is urged that the proceedings were initiated under the Act 9 of 1977, and that no interference is called for, with the orders under challenge.

A complaint was made to the then Lokayukya, by the Sarpanch of a village from Vizianagaram District, alleging that the houses constructed and allotted under the HUDCO Scheme were being sold by the beneficiaries, and that ineligible persons are enjoying the houses. Similar allegation appears to have been made, in respect of the houses allotted under the Scheme in Gantyada village. Respondents 2 and 5 have verified the matter, and on finding that the petitioners have purchased the houses from the beneficiaries, show-cause notices were issued.

Though the petitioners stated that they were also eligible to be allotted the houses, they did not produce any orders of allotment in their favour. Learned counsel for the petitioners has placed before this Court certain blank pass books said to have been issued to the petitioners, as a token of allotment, in their favour. The pass books do not contain the name of the allottees. In the show-cause notices, the name of the original allottee, as well as the person, who is said to have subsequently purchased the house, was clearly indicated. The only way, in which the petitioners could have substantiated their cases, was to have placed the orders of allotment in their favour. Even if there existed any allotment in their favour, in the records maintained by respondents 2 and 5, they could have produced them and substantiated case. None of these steps were taken. The allegation against the petitioners that they are not the allottees, and they have purchased the houses allotted to certain other poor persons, remains unrebutted. The second respondent has, in fact, undertaken physical verification.

In the appeals preferred by the petitioners, the second respondent has undertaken extensive discussion, with reference to individual petitioners. This court does not find any basis to interfere with the same. Even now the petitioners are not able to satisfy this Court that there existed any orders of allotment, in their favour.

For the foregoing reasons, the writ petition is dismissed. It is, however, made clear that in case, the petitioners, or any of them, are found to be eligible for allotment of house sites, or houses constructed under the Scheme, their cases shall also be considered. This order cannot be treated, as enabling the petitioners to continue in the existing premises. There shall be no order as to costs.

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23rd February 2006

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